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*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC and
the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT SECURITIES
LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of Bernard
L. Madoff Investment Securities LLC,

Plaintiff,

v.

COLT CORPORATION PROFIT SHARING PLAN &
TRUST; STEPHEN FIVERSON, in his capacity as Trustee of
the Colt Corporation Profit Sharing Plan & Trust,

Defendants.

No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-05125
(SMB)

AFFIDAVIT FOR JUDGMENT BY DEFAULT

[illegible]

Farrell A. Hochmuth, being duly sworn, deposes and states:

1. I was admitted pro hac vice into this Court and am a partner with the firm of Baker & Hostetler LLP, attorneys for Irving H. Picard (“Trustee”), Trustee for the consolidated Liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) and the Estate of Bernard L. Madoff, and I am familiar with all the facts and circumstances in this action.

2. I make this affidavit pursuant to Rule 7055-2(a) of the Local Rules of the Bankruptcy Court for the Southern District of New York, in support of the Trustee's application for entry of a default judgment against Defendants Colt Corporation Profit Sharing Plan & Trust and Stephen Fiverson, in his capacity as Trustee of the Colt Corporation Profit Sharing Plan & Trust ("Defendants").

3. This action is an adversary proceeding commenced before the same Court before which the main underlying SIPA proceeding, No. 08-01789 (SMB) (the “SIPA Proceeding”), is pending. The SIPA Proceeding was originally brought in the United States District Court for the Southern District of New York as *Securities and Exchange Commission v. Bernard L. Madoff Investment Securities LLC et al.*, No. 08 CV 10791, and has been referred to this Court. This Court has jurisdiction over this adversary proceeding under 28 U.S.C. § 1334(b) and 15 U.S.C. §§ 78eee(b)(2)(A), (b)(4). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (H), and (O).

4. On December 27, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon

Defendants. *See* Dkt. Nos. 7 and 8. An Affidavit of Service evidencing proper and timely service was filed with the Court. Dkt. No. 8. A true and correct copy of the Affidavit of Service is attached hereto as Exhibit 1.

5. The Defendants have not answered the Complaint, and the time for Defendants to answer the Complaint has expired. True and correct copies of the Certificates of Default obtained pursuant to Local Bankruptcy Rule 7055-1 are attached hereto as Exhibit 2 and Exhibit 3. *See also* Dkt. Nos. 11 and 12.

6. The Complaint in this adversary proceeding asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, sections 105(a), 544, 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of \$100,000.00 in connection with certain transfers of property by BLMIS to or for the benefit of Defendants.


7. On September 15, 2016, the Trustee voluntarily dismissed Counts Two through Six of the Complaint against Defendants with prejudice. The dismissal had no effect on or application to the Trustee's claims against Defendants in Count One of the Complaint. Dkt. No. 14.

8. This action seeks judgment for the liquidated amount of \$100,000.00 pursuant to Count One of the Complaint, which is justly due and owing, and no part of which has been paid.

9. Attached hereto as Exhibit 4 is a true and correct copy of the Affidavit of Service reflecting proper service of the Clerk's Entry of Default on Defendants on February 22, 2017. *See also* Dkt No. 16.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.

Dated: Houston, Texas March 17, 2017


Farrell A. Hochmuth

Sworn to before me this
17 day of March, 2017


Notary Public, State of Texas

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
Southern District of New York

SECURITIES INVESTOR PROTECTION
CORPORATION,

Adv. Pro. No. 08-01789 (BRL)

Plaintiff-Applicant,

SIPA LIQUIDATION

v.
BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

(Substantively Consolidated)

Defendant.

In re:

BERNARD L. MADOFF,

Case No. 09-11893 (BRL)

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-05125 (BRL)

Plaintiff,

v.

COLT CORPORATION PROFIT SHARING
PLAN & TRUST; and STEPHEN FIVERSON, in
his capacity as Trustee of the Colt Corporation
Profit Sharing Plan & Trust,

Defendants.

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

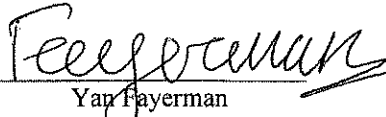
I, Yan Fayerman, declare:

1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc., 419 Park Avenue South, Suite 1206, New York, NY 10016.
3. On the 28th day of December, 2011, I caused a true and accurate copy of the:
 - (i) "Complaint", along with the relevant exhibits (Docket No. 1); and the

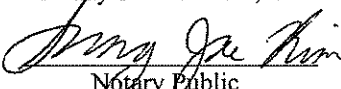
- (ii) "Notice of Applicability of the Order Approving Case Management Procedures for Avoidance Actions" (Docket No. 2); and the
- (iii) "Second Summons and Notice of Pretrial Conference in An Adversary Proceeding" (Docket No. 7); and the
- (iv) "Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order" dated November 11, 2010; and the
- (v) "Avoidance Action Executive Summary Letter dated December 20, 2010"; and the
- (vi) "Notice of Omnibus Avoidance Action Hearing Date" dated November 7, 2011; and the
- (vii) "Order Regarding Stipulations Extending Time to Respond and Adjourning Pre-Trial Conferences" dated June 14, 2011; and the
- (viii) "Order Extending the Time within Which the Trustee May Effect Service Of Process" dated December 20, 2011 (Docket No. 6),

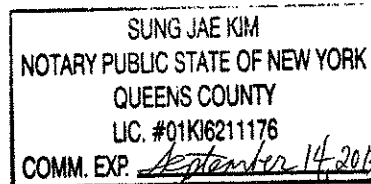
to be served upon the parties listed on Exhibit 1, attached hereto, via First Class US Mail.

- 4. Said documents were securely enclosed in postage prepaid envelopes and delivered to an office of the United States Postal Service for delivery by First Class Mail.
- 5. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 28th day of December, 2011 at New York, New York.

By 
Yan Fayerman

Sworn before me this
28th day of December, 2011


Notary Public



Date : 12/28/2011

Adv Pro No: 10-05125 (BRL)

Page # : 1

Exhibit 1

Redacted Version

STEPHEN FIVERSON

STEPHEN FIVERSON
PALM BEACH FL 33480

001648 016443

COLT CORPORATION PROFIT SHARING PLAN & TRUST

COLT CORPORATION PROFIT SHARING PLAN & TRUST
PALM BEACH FL 33480

000553 016442

EXHIBIT 2

UNITED STATES BANKRUPTCY COURT
Southern District of New York

In re: Administrative Case Re: 08-1789 (Securities Invest

Bankruptcy Case No.:
08-99000-smb

Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment
Securities LLC, and Bernard L. Madoff

Plaintiff(s),

–against–

Adversary Proceeding No.
10-05125-smb

Colt Corporation Profit Sharing Plan & Trust
Stephen Fiversonin his capacity as Trustee of the Colt Corporation Profit Sharing
Plan & Trust

Defendant(s)

ENTRY OF DEFAULT

It appears from the record that the following defendant failed to plead or otherwise defend in this case as required by law.

| | |
|-------|--|
| Name: | Colt Corporation Profit Sharing Plan & Trust |
|-------|--|

Therefore, default is entered against the defendant as authorized by Bankruptcy Rule 7055.

Dated: 6/25/15

Vito Genna

Clerk of the Court

By: /s/ Dawn McCaffrey

Deputy Clerk

EXHIBIT 3

UNITED STATES BANKRUPTCY COURT
Southern District of New York

In re: Administrative Case Re: 08-1789 (Securities Invest

Bankruptcy Case No.:
08-99000-smb

Irving H. Picard, Trustee for the Liquidation of Bernard L. Madoff Investment
Securities LLC, and Bernard L. Madoff

Plaintiff(s),

–against–

Adversary Proceeding No.
10-05125-smb

Colt Corporation Profit Sharing Plan & Trust
Stephen Fiverson in his capacity as Trustee of the Colt Corporation Profit Sharing
Plan & Trust

Defendant(s)

ENTRY OF DEFAULT

It appears from the record that the following defendant failed to plead or otherwise defend in this case as required by law.

| | |
|-------|------------------|
| Name: | Stephen Fiverson |
|-------|------------------|

Therefore, default is entered against the defendant as authorized by Bankruptcy Rule 7055.

Dated: 6/25/15

Vito Genna

Clerk of the Court

By: /s/ Dawn McCaffrey

Deputy Clerk

EXHIBIT 4

BAKER & HOSTETLER LLP

45 Rockefeller Plaza
New York, NY 10111
Telephone: (212) 589-4200
Facsimile: (212) 589-4201

*Attorneys for Irving H. Picard, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

Colt Corporation Profit Sharing Plan & Trust;

Stephen Fiverson in his capacity as Trustee of the
Colt Corporation Profit Sharing Plan & Trust,

Defendants.

Adv. Pro. No. 10-5125 (SMB)

**AFFIDAVIT OF SERVICE OF THE ENTRY OF DEFAULT AGAINST
COLT CORPORATION PROFIT SHARING PLAN & TRUST
AND ENTRY OF DEFAULT AGAINST STEPHEN FIVERSON**

SCHEDULE A

Pro Se Defendants

Colt Corporation
Stephen Fiverson, Trustee
Livingston, NJ 07039

Colt Corporation
Stephen Fiverson
Palm Beach, FL 33480

Colt Corporation
Stephen Fiverson
Palm Beach, FL 33480